

HOUSE BILL 94

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11r1041
CF SB 3

By: **Delegates Eckardt, Haddaway-Riccio, and Cane**

Introduced and read first time: January 24, 2011

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Dorchester County – Local Government Tort Claims Act – Inclusion of**
3 **Specified Nonprofit Entity**

4 FOR the purpose of altering the definition of a “local government” under the Local
5 Government Tort Claims Act to include a certain nonprofit corporation in
6 Dorchester County; providing that a certain notice requirement does not apply
7 to certain actions against a certain nonprofit corporation in Dorchester County
8 or its employees; providing for the application of this Act; and generally relating
9 to the inclusion of a certain nonprofit entity in Dorchester County under the
10 Local Government Tort Claims Act.

11 BY repealing and reenacting, with amendments,
12 Article – Courts and Judicial Proceedings
13 Section 5–301 and 5–304
14 Annotated Code of Maryland
15 (2006 Replacement Volume and 2010 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article – Courts and Judicial Proceedings**

19 5–301.

20 (a) In this subtitle the following words have the meanings indicated.

21 (b) “Actual malice” means ill will or improper motivation.

22 (c) (1) “Employee” means any person who was employed by a local
23 government at the time of the act or omission giving rise to potential liability against
24 that person.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) “Employee” includes:

2 (i) Any employee, either within or without a classified service
3 or merit system;

4 (ii) An appointed or elected official; or

5 (iii) A volunteer who, at the request of the local government, and
6 under its control and direction, was providing services or performing duties.

7 (d) “Local government” means:

8 (1) A chartered county established under Article 25A of the Code;

9 (2) A code county established under Article 25B of the Code;

10 (3) A board of county commissioners established or operating under
11 Article 25 of the Code;

12 (4) Baltimore City;

13 (5) A municipal corporation established or operating under Article 23A
14 of the Code;

15 (6) The Maryland–National Capital Park and Planning Commission;

16 (7) The Washington Suburban Sanitary Commission;

17 (8) The Northeast Maryland Waste Disposal Authority;

18 (9) A community college or board of trustees for a community college
19 established or operating under Title 16 of the Education Article, not including
20 Baltimore City Community College;

21 (10) A county public library or board of trustees of a county public
22 library established or operating under Title 23, Subtitle 4 of the Education Article;

23 (11) The Enoch Pratt Free Library or Board of Trustees of the Enoch
24 Pratt Free Library;

25 (12) The Washington County Free Library or the Board of Trustees of
26 the Washington County Free Library;

27 (13) A special taxing district;

28 (14) A nonprofit community service corporation incorporated under
29 State law that is authorized to collect charges or assessments;

1 (15) Housing authorities created under Division II of the Housing and
2 Community Development Article;

3 (16) A sanitary district, sanitary commission, metropolitan commission,
4 or other sewer or water authority established or operating under public local law or
5 public general law;

6 (17) The Baltimore Metropolitan Council;

7 (18) The Howard County Economic Development Authority;

8 (19) The Howard County Mental Health Authority;

9 (20) A commercial district management authority established by a
10 county or municipal corporation if provided under local law;

11 (21) The Baltimore City Police Department;

12 (22) A regional library resource center or a cooperative library
13 corporation established under Title 23, Subtitle 2 of the Education Article;

14 (23) Lexington Market, Inc., in Baltimore City;

15 (24) The Baltimore Public Markets Corporation, in Baltimore City;

16 (25) The nonprofit corporation serving as the local public transportation
17 authority for Carroll County pursuant to a contract or memorandum of understanding
18 with Carroll County (Carroll County Senior Overland Service, Inc., t/a Carroll Area
19 Transit System);

20 (26) The nonprofit corporation serving as the animal control and
21 licensing authority for Carroll County pursuant to a contract or memorandum of
22 understanding with Carroll County (the Humane Society of Carroll County, Inc.);

23 (27) Garrett County Municipalities, Inc., in Garrett County; [and]

24 (28) The nonprofit corporation serving as the local public transportation
25 authority for Garrett County pursuant to a contract or memorandum of understanding
26 with Garrett County (Garrett County Community Action Committee, Inc.); AND

27 **(29) THE NONPROFIT CORPORATION SERVING AS THE LOCAL**
28 **PUBLIC TRANSPORTATION AUTHORITY FOR DORCHESTER COUNTY PURSUANT**
29 **TO A CONTRACT OR MEMORANDUM OF UNDERSTANDING WITH DORCHESTER**
30 **COUNTY (DELMARVA COMMUNITY SERVICES).**

31 5-304.

1 (a) This section does not apply to an action against a nonprofit corporation
2 described in § 5-301(d)(23), (24), (25), (26), [or] (28), **OR (29)** of this subtitle or its
3 employees.

4 (b) (1) Except as provided in subsections (a) and (d) of this section, an
5 action for unliquidated damages may not be brought against a local government or its
6 employees unless the notice of the claim required by this section is given within 180
7 days after the injury.

8 (2) The notice shall be in writing and shall state the time, place, and
9 cause of the injury.

10 (c) (1) The notice required under this section shall be given in person or
11 by certified mail, return receipt requested, bearing a postmark from the United States
12 Postal Service, by the claimant or the representative of the claimant.

13 (2) Except as otherwise provided, if the defendant local government is
14 a county, the notice required under this section shall be given to the county
15 commissioners or county council of the defendant local government.

16 (3) If the defendant local government is:

17 (i) Baltimore City, the notice shall be given to the City
18 Solicitor;

19 (ii) Howard County or Montgomery County, the notice shall be
20 given to the County Executive; and

21 (iii) In Anne Arundel County, Baltimore County, Harford
22 County, or Prince George's County, the notice shall be given to the county solicitor or
23 county attorney.

24 (4) For any other local government, the notice shall be given to the
25 corporate authorities of the defendant local government.

26 (d) Notwithstanding the other provisions of this section, unless the
27 defendant can affirmatively show that its defense has been prejudiced by lack of
28 required notice, upon motion and for good cause shown the court may entertain the
29 suit even though the required notice was not given.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
31 construed to apply only prospectively and may not be applied or interpreted to have
32 any effect on or application to any cause of action arising before the effective date of
33 this Act.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2011.